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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,140	04/08/2004	Darren McClelland	14671	6658
293	7590	09/07/2005	EXAMINER	
Ralph A. Dowell of DOWELL & DOWELL P.C. 2111 Eisenhower Ave. Suite 406 Alexandria, VA 22314			SANDY, ROBERT JOHN	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/820,140

Applicant(s)

MCCLELLAND, DARREN

Examiner

Robert J. Sandy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16, 22-39, 41 and 42 is/are rejected.
- 7) ☒ Claim(s) 17-21 and 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/1/05</u>  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

Claims 28 and 29 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 28 and 29 contain language to further describes "the cord" which has not been positively claimed in claim 1. Claim 1 has only recited the subject matter of the cord as an intended use of the claimed tightening apparatus. Therefore, each of claims 28 and 29 fail to further limit the claimed invention of base claim 1 directed to "An apparatus for tightening a cord".

### ***Claim Rejections - 35 USC § 112***

Claims 30 and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 30 and 31 are indefinite in view of each of their preambles, which recites "A system comprising first and second apparatuses as defined by claim 1" and "...by claim 29", where claims 1 and 29 lack antecedent basis for establishing "first and second apparatuses".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 9-16, 22-29, 41 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Howell (U. S. Patent No. 5,199,758). Howell('758) discloses an apparatus (12) capable of tightening a cord, the apparatus comprising: a body (14); and a grabber (extending

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portion at end 24, best shown in Figs. 1 and 3) extending from the body and defining a groove (34) therebetween configured to capably grip a cord therein;

(concerning claim 2) the body has a shape configured to be manually grippable;

(concerning claim 3) the body has a generally cylindrical shape;

(concerning claim 4) the body has a length at least as great as a width of an intended user's hand;

(concerning claim 9) the grabber is generally tongue-shaped;

(concerning claim 10) the grabber extends generally circumferentially and radially outwardly from an outer surface of the body at a central region thereof;

(concerning claim 11) the grabber comprises a base portion at which the grabber merges with the body, and a tip portion narrower than the base portion (see Figs. 1 and 3);

(concerning claim 12) the body and the grabber are rigid ("rigid", col. 3, line 36);

(concerning claim 13) regarding the limitation of "wherein the body and the grabber are formed from a single mold" renders claim 13 as a product-by-process claim wherein the process relied upon is "formed from a single mold". This limitation is not given an patentable weight since the structural limitations of the claimed apparatus are met.

(Concerning claim 14) the body and the grabber comprise an inner core material (i.e., the inner core material exists between the outer surface of the body and the inner surface of the body);

(concerning claim 15) the inner core material comprises a plastic ("plastic", col. 3, line 35);

(concerning claim 16) the inner core material comprises a resin (a.k.a. "plastic");

(concerning claim 22) the grabber is configured to capably grab a cord;

(concerning claim 23) the grabber is capable of being insertable under a cord to grab the cord;

(concerning claim 24) the grabber is generally tongue-shaped and comprises a tip portion (tip portion best shown in Figs. 1 and 3) capable of being insertable under the cord to grab the cord;

(concerning claim 25) the body is rotatable about a central axis thereof to grip the cord in the groove;

(concerning claim 26) the body is pullable in a direction non-parallel to the central axis of the body; and

(concerning claim 27) the body is pullable in a direction substantially perpendicular to the central axis of the body.

Concerning claims 41 and 42, Howell ('758) discloses an apparatus (12) for tightening a cord, the apparatus comprising: a body (14); means for grabbing the cord (tip portion at end 24); and means (slot 34) for gripping the cord between the means for grabbing and the body; and

(concerning claim 42) means (grippable exterior surface 26 and body 14) for facilitating pulling of the body.

Claims 1-4, 9, 10, 12, 14, 22-29, and 32-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Thibeault (U. S. Patent No. 3,771,699). Thibeault ('699) discloses the claimed apparatus and method of tightening a cord in Figures 1-4 and column 1, line 38 through column 2, line 17. The hook 18 is analogous to the structural limitations of the grabber.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howell ('758), or Thibeault ('699). Howell ('758) and Thibeault ('699) each disclose the claimed apparatus except for wherein: the body has a length of at least one-half decimeter; the body has a length of at least one decimeter; the body has a width of at least one centimeter; and the body has a width of at least two centimeters.

Howell ('758) and Thibeault ('699) are each silent to the dimensional characteristics of the disclosed device. However, it would have been an obvious matter of design choice to modify

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the devices of Howell ('758) and Thibeault ('699) for their respective bodies to have a length of at least one-half decimeter; the bodies having a length of at least one decimeter; the bodies having a width of at least one centimeter; and the bodies having a width of at least two centimeters, since change in size is generally recognized as being within the level of ordinary skill in the art. Further, applicant has not disclosed that these specific dimensional characteristics solves any stated problem or produces an unexpected result.

*Allowable Subject Matter*

Claims 17-21 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

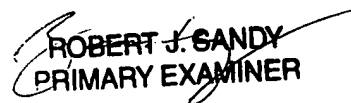
*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ROBERT J. SANDY  
PRIMARY EXAMINER

Robert J. Sandy  
Primary Examiner  
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